

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GABRIEL J.B. MONTOYA,
and ARES BROWN,

Plaintiffs,

v.

Case No. 22-cv-265 KG/JHR

NEW MEXICO DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on City Defendants’ Motion for Summary Judgment on Claims of Ares Brown, (Doc. 140), filed December 11, 2024. Plaintiffs did not file a Response, but instead filed a Notice of Non-Opposition, (Doc. 147), on January 9, 2025. Having considered the briefing, the Court grants Defendants’ Motion for Summary Judgment.

In the Complaint, Plaintiff Ares Brown claims Defendants violated his Eighth Amendment Rights and his right to be free from disability discrimination in violation of Section 504 of the Rehabilitation Act of 1973. (Doc. 88) at 32. In Defendants’ Motion, they argue Defendant NMCD is entitled to summary judgment because it is not subject to suit pursuant to 43 U.S.C. § 1983. (Doc. 140) at 2. They also argue Defendants Alisha Tafoya Lucero, Tim Hatch, and Janine Rodriguez are entitled to qualified immunity. *Id.* In his Notice, Plaintiff Gabriel Montoya states “there is no opposition to Defendants’ Motion [Doc. 140] regarding Ares Brown.” (Doc. 147) at 1. Because Plaintiff Gabriel Montoya explicitly stated he does not oppose the motion and Plaintiff Ares Brown failed to file a response, the Court determines this Motion is unopposed. Thus, the Court grants Defendants’ Motion for Summary Judgment, (Doc. 140), and dismisses the claims brought by Ares Brown.

/s/ KENNETH J. GONZALES¹
CHIEF UNITED STATES DISTRICT JUDGE

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